<u>REMARKS</u>

Claims 1 to 19 are pending in the application, of which claims 1, 10, and 19 are independent. In the Office Action dated August 9, 2006, the Examiner rejected claims 1-8, 10-17, and 19 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Publication No. 2004/0143745 to Margolus et al. ("*Margolus*") and U.S. Patent No. 6,850,938 to Sadjadi ("*Sadjadi*"). In addition, the Examiner rejected claims 9 and 18 under 35 U.S.C. § 103(a) as being unpatentable over *Margolus*, *Sadjadi*, and U.S. Patent No. 6,857,068 to Moller et al. ("*Moller*").

In order to establish a *prima facie* case of obviousness, three basic criteria must be met. First, the prior art reference (or references when combined) must teach or suggest all claim elements. Second, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify a reference or to combine reference teachings. Third, there must be a reasonable expectation of success. See *In re Vaeck*, 947 F.2d 488 (Fed. Cir. 1991); M.P.E.P. § 2142. Because these requirements are not met, Applicants respectfully traverse the Examiner's rejections.

Margolus, _Sadjadi,_ and _Moller_ fail to teach or suggest all claim recitations.

With respect to independent claims 1, 10, and 19, as amended, the combination of *Margolus* and *Sadjai* does not teach or suggest at least three claim recitations. First, neither *Margolus* nor *Sadjadi* teaches or suggests "setting the state of the identifier to indicate that the one or more data objects are ready for replication." The Examiner submits that *Sadjadi* teaches changing a lock to an exclusive lock, and removing the exclusive lock when an update commit is complete. (August 9, 2006 Office Action, p. 3-

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4; *Sadjadi*, col. 2, ll. 47-50.) However, merely setting and removing locks, without more, does not inherently suggest "<u>setting the state</u> of the identifier to indicate that the one or more data objects are <u>ready for replication</u>." *Sadjadi* does not teach any replication method, and is instead directed at controlling data access by using locks. In fact, it seems that the word "replication" and other similar-meaning recitations do not appear anywhere in *Sadjadi*. Although *Margolus*, briefly considers replication (para. [0046]), it does not disclose the above recitation, as the Examiner correctly pointed out in the Office Action. (August 9, 2006 Office Action, p. 3.)

Second, *Margolus* and *Sadjadi* do not teach or suggest "creating an electronic data element comprising a first field having an identifier and a second field having a state of the identifier [and] … assigning the identifier to one or more data objects," as recited in various forms in all amended independent claims 1, 10, and 19. The Examiner cites *Margolus*, which teaches that an access identifier is assigned to a data item (para. [0011]), as evidence of a "data element comprising a first field having an identifier." Additionally, the Examiner argues that the plurality of access-authorization credentials in *Margolus* serve as the claimed "second field having a state of the identifier."

The Examiner's analogy is incorrect because, among other reasons, the access identifier and the authorization credentials in *Margolus* are actually part of the same mechanism, and not two separate fields, as claimed. *Margolus* states:

> The information representative of the access-authorization credential may be a cryptographic hash of all or part of the access-authorization credential. The cryptographic hash may be an access identifier that uniquely identifies the data item for a particular user or client program. (*Margolus*, para. [0011].)

Consequently, the access-authorization credential may be information representative of the access identifier. Because the access-authorization credentials are essentially the same or overlapping information as the identifiers, the access-authorization credential cannot teach a "second field having a state of the identifier."

Third, *Margolus* and *Sadjadi* do not suggest "assigning the identifier to one or more data objects when the state of the identifier indicates that assigning the identifier is possible, wherein the state of the identifier also indicates that the one or more data objects assigned the identifier are not yet ready for replication," as recited in amended claims 1, 10, and 19. *Margolus* involves restricting access to data objects as a method of privacy in a shared data-storage environment, not as a method of replication, and therefore cannot teach the above clause. Although *Margolus* briefly considers replication (para. [0046]), restricting access to data objects is entirely unrelated to the rudimentary replication process it discloses. In fact, because *Margolus* teaches that the encrypted data objects can be replicated (para. [0046]), the restricted access in *Margolus* cannot suggest that "replication shall not yet be performed," as claimed by Applicants.

For at least these three reasons, the combination of *Margolus* and *Sadjadi* do not teach or suggest all recitations of amended independent claims 1, 10, and 19, as required under 35 U.S.C. § 103(a). All other claims (2-9 and 11-18) necessarily include the recitations of independent claims 1 or 10. To this end, even though the Examiner separately rejected claims 9 and 18 under 35 U.S.C. § 103(a) in view of *Margolus*, *Sadjadi*, and *Moller*, claims 9 and 18 are allowable because *Moller* does not teach or

suggest any recitations for amended independent claims 1 or 10, or 19. Consequently,

Applicants respectfully submit that all pending claims 1-19 should be allowed.
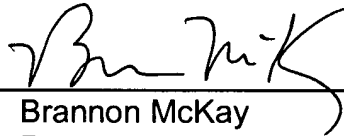
Conclusion

In view of the foregoing amendments and remarks, Applicants respectfully

request reconsideration and reexamination of this application and the timely allowance

of the pending claims.

Please grant any extensions of time required to enter this response and charge

any additional required fees to our deposit account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: October 31, 2006   By: _____

Brannon McKay
Reg. No. 57,491

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